

46 Am. Jur. 2d Judges § 144

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

4. Bias or Prejudice as Grounds for Disqualification

c. Judge's Actions or Rulings as Grounds for Disqualification

§ 144. Judge's actions and comments regarding plea bargains and settlements as grounds for disqualification

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1), 49(2)

The dangers of active participation by trial judges in plea bargain negotiations are that such participation is likely to impair the trial court's impartiality. The judge who suggests or encourages a particular plea bargain may feel a personal stake in the agreement and may therefore resent the defendant who rejects his or her advice.¹

Caution:

Because the essence of the judicial role is neutrality, recusal and certification to another court is required when counsel tells the judge, at the pretrial motion stage, that the government's case can be proved beyond a reasonable doubt and that his or her client intends to commit perjury.²

A trial judge's comments during the proceedings on a motion to enforce a purported settlement agreement do not demonstrate bias or prejudice such that recusal is required, where the judge's comments are primarily aimed at probing the parties' positions

in a good-faith effort to reach a decision.³ However, when a judge participates in pretrial settlement negotiations which subsequently fail, the judge should disqualify him- or herself from presiding in the case in order to eliminate any appearance of impropriety and to avoid subtle suspicions of prejudice or bias unless all parties agree on the record and stipulate that the judge may preside.⁴

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Footnotes

- 1 [State v. Messier](#), 16 Conn. App. 455, 549 A.2d 270 (1988).
The defendant's alleged fear that the trial judge had prejudged him such that he would not receive a fair trial on charges of attempted felony murder and arson was reasonable, and thus the defendant's motion for the disqualification of the judge, which motion was premised on the judge's statements during a plea hearing, was legally sufficient to require disqualification, where the judge told the victim at the hearing that "no human being, no animal, no insect deserves that kind of treatment" and responded to the defendant's interjection to "[g]ive [him] the death penalty, then," by saying, "[b]elieve me, I wish I could." [Carter v. State](#), 138 So. 3d 536 (Fla. 4th DCA 2014).
- 2 [Butler v. U. S.](#), 414 A.2d 844 (D.C. 1980).
- 3 [Estate of Cox by Cox v. Dunakey & Klatt, P.C.](#), 893 N.W.2d 295 (Iowa 2017).
- 4 [Timm v. Timm](#), 195 Conn. 202, 487 A.2d 191 (1985); [Schellin v. North Chinook Irr. Ass'n](#), 257 Mont. 262, 848 P.2d 1043 (1993).
In light of the court's statements regarding public corruption and the governmental defendants' obstinate refusal to consider a settlement in an inmate abuse case, especially in the wider context of the court's negative interactions with the defendants' counsel during the contested and extended pretrial proceedings, a reasonable person would perceive a significant risk that the court would resolve the case on a basis other than the merits, and therefore the court's recusal was required. [Fairley v. Andrews](#), 423 F. Supp. 2d 800 (N.D. Ill. 2006).

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